



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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### MEMORANDUM

**TO:** Senators GUTHRIE, Den Hartog, Jordan and,  
Representatives BOYLE, Troy, Erpelding

**FROM:** Katharine Gerrity - Deputy Division Manager

**DATE:** June 05, 2019

**SUBJECT:** Temporary Rule

IDAPA 02.02.12 - Bonded Warehouse Rules - Adoption of Temporary Rule - Docket No.  
02-0212-1902

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

**IDAPA 02 – DEPARTMENT OF AGRICULTURE**

**02.02.12 – BONDED WAREHOUSE RULES**

**DOCKET NO. 02-0212-1902**

**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2019.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 69-231, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The use of electronic warehouse receipts was added in Section 69-223(1)(f)(ii), Idaho Code. In addition to paper warehouse receipts issued by the department, electronic warehouse receipts are now allowed to be issued for commodity that is stored. The temporary rule provides additional support and guidance regarding the use of electronic warehouse receipts. The rule will describe what type of electronic warehouse receipts are allowed and what necessary requirements need to be in place with the electronic warehouse receipt provider.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The use of electronic warehouse receipts was added in Section 69-223(1)(f)(ii), Idaho Code. This law goes into effect July 1, 2019. The temporary rule will allow warehouses to comply with the new section of Idaho Code until negotiated rule making has occurred and the legislature takes action on the rule.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Kyle Wilmot at (208) 332-8612.

Dated this 2nd day of May, 2019.

Brian Oakey  
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Idaho Department of Agriculture  
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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 02-0212-1902  
(Only Those Sections With Amendments Are Shown.)**

**050. RECEIPTING.**

**01. Every Warehouseman.** Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (9-1-92)

**02. Form of Nonnegotiable Warehouse Receipts.** Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, shall be deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. (9-1-92)

**03. Lost Negotiable Warehouse Receipt.** In order to issue a new warehouse receipt supplementing one that has been lost or destroyed or to cancel an outstanding warehouse receipt that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman: (9-1-92)

**a.** An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and (9-1-92)

**b.** A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. Such warehouse receipts issued in lieu of lost or destroyed receipts shall duplicate the original and bear a statement that it is issued in lieu of the lost or destroyed receipt. A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued. (9-1-92)

**04. Electronic Warehouse Receipts.** An electronic version of a warehouse receipt generated by a provider licensed and approved by the United States Department of Agriculture (USDA) that contains the same information as the paper version of a warehouse receipt may be issued instead of a paper document. The electronic version of a warehouse receipt carries the same rights and obligations as the paper version. At no time may a paper receipt and an electronic receipt represent the same lot of commodity. Electronic warehouse receipts shall be numbered and shall be issued consecutively starting with the number specified to the provider by the department. (7-1-19)T

**05. Agreements.** Prior to entering into an agreement with an electronic warehouse receipt provider to issue such receipts, a warehouse licensee must provide a copy of the proposed agreement to the department for review and approval. A warehouse operator shall not issue electronic negotiable warehouse receipts until and unless the department approves its agreement with an electronic warehouse receipt provider and notifies the licensee of such approval. A provider shall be independent of any outside influence or bias in action or appearance. In order to be approved by the department, an electronic warehouse receipt provider agreement shall: (7-1-19)T

**a.** Only be with a provider that is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing. (7-1-19)T

**b.** Provide for the department to become a joint holder on all open electronic negotiable warehouse receipt if the issuing warehouse operator's license is relinquished or revoked. (7-1-19)T

**c.** Require the provider to provide security as required by its provider agreement with the USDA regarding on-site security, data authorization, security plans, and facility vulnerability. (7-1-19)T

**d.** Prohibit the provider from deleting or altering any electronic negotiable warehouse receipts in the centralized filing system unless such actions are authorized by the department. (7-1-19)T

**e.** Allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data

shall be maintained for six (6) years after cancellation of the receipts. Access shall be made available in a manner that allows interaction with department warehouse examinations. Access shall be free of any charge or costs to the department. (7-1-19)T

f. Require the provider, when a warehouse operator changes provider, to supply the new provider and the warehouse operator with a complete list of all the current holders of open electronic negotiable commodity warehouse receipts prior to the intended transfer date. (7-1-19)T

**06. Change in Provider.** A warehouse operator shall issue electronic warehouse receipts through only one (1) approved provider at a time. (7-1-19)T

a. A warehouse operator may change providers only once a year unless otherwise approved by the department. (7-1-19)T

b. A warehouse operator shall notify the department thirty (30) calendar days prior to the intended date of any transfer to a new provider. Such notification shall include the exact date of the proposed transfer. The operator must also, thirty (30) days prior to the intended transfer date, send notices of the change to the holders of all open electronic negotiable warehouse receipts. The notices shall specify the date and time period during which access to receipts will not be available. (7-1-19)T